



Minnesota Statute 13D – Part III

OPEN MEETING LAW

The Minnesota Open Meeting Law, [MN Statute 13D](#), provides specific reasons a Charter School Board and other public bodies may, or are required to, close their meetings to the public. It also prescribes the language that should be used to “notice” that a closed meeting will take place and for which of the authorized reason(s) the meeting is being closed. Further, the law contains requirements for public bodies, including charter school boards, to follow both DURING a closed meeting and AFTER it has been conducted.

These issues of *The Sounding Board* will focus on MN Open Meeting Law and its implications for charter school boards of directors. It will include four parts:

Part 1. Reasons to Close a Charter School Board Meeting and How To Do It

Part 2. Requirements During and After a Closed Meeting

Part 3. Suggested Procedures and Language for Closing Charter School Board Meetings

Part 4. Holding Open Meetings Consistent with MN Statute 13D.

These issues include information from MN Statute 13D that are most pertinent to charter school boards as determined by the Audubon Center of the North Woods (ACNW); however, there may be other provisions of MN Statute 13D that are important in specific situations and the full text of the statute should be referenced for any situations other than those described below.

This paper is not intended to be legal advice. Please check with the school’s legal counsel and / or the full text of the statute for additional information.

Promoting Quality
Charter School
Governance

A publication of the ACNW
Charter School Division



**Audubon Center
of the North Woods**

Suggested Language Pertinent to the Topics for which Charter School Boards Most Frequently Close Their Meetings

Common Closed Meeting Topics

Based on a review of a full year of board meeting minutes for all of ACNW's authorized schools, two topics are most commonly addressed by boards in closed meetings under MN Statute 13D:

1. to consider preliminary allegations or charges against a person who is under the board's authority; or
2. to evaluate the performance of the school's director.

ACNW chartered school boards do close their meetings for other authorized reasons; however, it is a rare occasion when that occurs. Please review MN Statute 13D and/or Part 1 of this series for more information on other reasons to close a meeting.

Specific to the two most frequent reasons for closing meetings cited above, ACNW offers the following suggestions for consideration by school boards.

1. To consider preliminary allegations or charges against a person who is under the board's authority.

Sample Agenda Item:

"Closed Meeting under MN Statute 13D.05, Subdivision 2 (4b) for preliminary consideration of allegations or charges against an individual subject to the board's authority."

Remember:

The individual against whom the board is considering charges or allegations must be aware of the meeting and subject matter. Per MN Statute 13D.05 Subd. 2 (4b) this "meeting must also be open at the request of the individual who is the subject of the meeting."

Motion to close the meeting:

"I move to close the meeting under MN Statute 13D.05, Subdivision 2 (4b) for preliminary consideration of allegations or charges against an individual subject to the board's authority."

Meeting minutes to report the board's conclusions:

Sample 1: "The board met in a closed meeting in accordance with MN Stat 13D.05, Subdivision 2 (4b) to consider preliminary allegations or charges against an individual subject to the its authority and has determined that no further action will be taken by the board on this matter."

Sample 2: "The board met in a closed meeting in accordance with MN Statute 13D.05, Subdivision 2 (4b) to consider preliminary allegations or charges against a person subject to the board's authority and has determined that further information is needed in order for the board to make any decisions in this regard. The board's legal counsel will secure and provide that information for the board's consideration at a later date."

Sample 3: "The board met in a closed meeting in accordance with MN Stat 13D.05, Subdivision 2 (4b) to consider preliminary allegations or charges against a person subject to the board's authority and has determined that the facts support a conclusion of misconduct by NAME OF STAFF MEMBER related to confidentiality of private student data for which the staff member has been issued a written reprimanded and a requirement to attend board approved training relative to the MN Data Practices Act."

1. To consider preliminary allegations or charges against a person who is under the board's authority.

(Continued from page 2)

Note:

If the individual subject to the board's authority requested that the board keep open the original meeting to consider preliminary allegations, then the individual in question would be indicated in board meeting minutes.

Remember:

In the case of Sample 2, the board will revisit this topic at a subsequent meeting and may close that meeting consistent with MN Statute 13D. The board would then document the conclusions from that meeting consistent with the suggestions provided here or other appropriate language.



2. To evaluate the performance of the school's director.

Sample Agenda Item:

"Closed Meeting under MN Statute 13D.05, Subdivision 3(a) to evaluate the performance of the School's Director."

Remember:

If the director requests the meeting to be open, the meeting must be open to the public. (If a school's bylaws designate the school director as an Ex Officio member of the board, s/he has the right to attend ALL board meetings, including closed board meetings.)

Motion to close the meeting:

"I move to close the meeting under MN Statute 13D.05, Subdivision 3(a) to evaluate the performance of Armando Padillo, the School's Director." (From Statute: The public body shall identify the individual to be evaluated prior to closing a meeting.)

Meeting minutes to report the board's conclusions:

Sample 1 (For a Positive Evaluation):

"In accordance with ABC School Board Policy #123 on Director Evaluation, the board conducted the annual summative evaluation of *name of director*, School Director. The board-approved Director's job description formed the basis of the evaluation. The director provided the board with written and verbal descriptions of the activities and milestones accomplished in each area of the job description, survey data from stakeholders was reviewed by the board, and strengths and opportunities for continued professional growth and development were identified that will included in the director's professional development plan. Goal setting for director for the 2018-19 school year will take place at the board's July 2018 meeting. *(Continued on next page.)*

2. To evaluate the performance of the school's director (*continued from page 3*).

Meeting minutes to report the board's conclusions:

Sample 1 (For a Positive Evaluation, continued):

The board expressed its appreciation for the director's continued commitment to the school and commended him/her for very effective organization, follow-through, and communication with all stakeholders. Especially noteworthy was the director's success in leading the school in its quest for increased and sustainable student enrollment and improved academic outcomes as measured by performance on Exhibit G of the charter contract. The director is encouraged to continue his/her efforts to seek opinions and ideas from a wide range of sources as he/she develops plans of action and implements initiatives. *Name of director* is a valued asset to the ABC charter school."

Sample 2 (For an Evaluation with Performance Concerns):

"In accordance with ABC School Board Policy #123 on Director Evaluation, the board conducted the annual summative evaluation of *name of director*, School Director. The board-approved Director's job description formed the basis of the evaluation. The board expressed its appreciation for the director's hard work on behalf of the school and commended him/her for demonstrating a sincere effort to assist the school and its students to be successful.

The director provided the board with written and verbal descriptions of the activities and milestones accomplished in each area of the job description, survey data from stakeholders was reviewed by the board, and several strengths and areas of required professional performance improvement were identified.

Of concern to the board was the director's consistent lack of effective organization, follow-through, and communication with all stakeholders. This resulted in confusion and uncertainty about School policies and procedures and in several cases led to unnecessary verbal conflict among staff members and failure to meet several job description requirements.

In order to continue in his/her role as ABC Charter School director after the upcoming school year, the director will need to demonstrate significant improvement in the areas identified in a separate document that will be provided to the director within 30 days.

The board calls on all stakeholders of ABC Charter School to work cooperatively with the director and with the school board in order that collectively and individually everyone will be successful, especially the children who attend our school."



2. To evaluate the performance of the school's director.

Meeting minutes to report the board's conclusions (continued):

Sample 3 (For a Negative Evaluation Resulting in the Director's Release from Employment):

"In accordance with ABC School Board Policy #123 on Director Evaluation, the board conducted the annual summative evaluation of *name of director*, School Director. The board-approved Director's job description formed the basis of the evaluation. The board expressed its appreciation for the director's hard work on behalf of the school and commended him/her for demonstrating a sincere effort to assist the school and its students to be successful.

The director provided the board with written and verbal descriptions of the activities and milestones accomplished in each area of the job description, survey data from stakeholders was reviewed by the board, and several strengths and areas of required professional performance improvement were identified.

Of very serious concern to the board was the director's consistent lack of effective organization, follow-through/timeliness, and communication with all stakeholders. This resulted in confusion and uncertainty about School policies and procedures and in several cases led to unnecessary verbal conflict among staff members and failure to meet many job description requirements.

The director was provided ongoing feedback as to the board's concerns about his/her performance as they arose during the school year. It is with regret that the board determined that the director's professional performance is below the standard the board expects, thus the director will not be returning for the next school year. The board thanks the director for all of his/her efforts on the school's behalf and wishes him/her the very best in his/her professional career in the future."



Note: Savvy board chairs, prior to the board meeting at which the director's evaluation will be conducted, and based on data sources the board will use for the evaluation, will draft one or more versions in the appropriate category above (Positive Evaluation, Performance Concerns Evaluation, or Negative Evaluation) for the board's consideration. At the end of the evaluation discussion the board chair can then ask the full board which of the statements they feel most accurately reflects the views of a majority of its members. They also might then edit the one they like the best to make it suit their consensus.

For example, if the data sources indicate that it is likely the board will determine the director's performance will be in the positive category, the board chair will create a DRAFT statement to that effect for the board's consideration and as a starting point. This is in lieu of the board attempting to group-write and group-edit the summary at the conclusion of the meeting, or to postpone writing the summary statement. It is best to conclude the evaluation by having the board come to a consensus on a summary statement at the time of the evaluation when the data and the deliberations are fresh in board members' minds, rather than to defer writing it at a future time when such might not be the case.